

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

06-4494 [Briefs](#)
US v. Zacarias Moussaoui
(Brinkema)

CRIMINAL LAW & PROCEDURE. Whether the defendant's fifth and sixth amendment rights were violated rendering his guilty plea involuntary; whether his guilty plea was obtained in violation of Rule 11.

Monday, January 26, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

07-9505 UNDER SEAL CASE
In re Under Seal

07-1804 [Briefs](#) CIVIL. Whether district court erred in applying choice of law rules and dismissing breach of contract,
Waterside Capital v. Hales Bradford Allen professional malpractice, and constructive fraud claims under Rule 12(b)(6).
(Smith)

07-4863 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether indictment constructively amended; Fourth Amendment,
US v. Charceil D. Kellam sentencing issues in crack conspiracy conviction.
(Conrad)
Associatiions: 07-4902

REVD 1/23/09

Monday, January 26, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
1:30 p.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

08-1421	Briefs	CIVIL. Whether real estate transaction gave rise to equitable mortgage; whether alleged misrepresentations violated Truth-in-Lending Act; other issues.
Marion Johnson v. Jason Washington (Friedman)		
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07-1184	Briefs	CONSTITUTIONAL LAW: Whether police official's conduct in disseminating memorandum was citizen speech protected under the First Amendment.
Michael Andrew v. Kevin Clark (Davis)		
Associations: 07-1247		
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08-6770	Briefs	POST CONVICTION: Whether the district court erred in granting federal habeas relief on ground that defense counsel was ineffective.
David Richardson v. State of North Carolina (Flanagan)		
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08-1266	Briefs	CONTRACT LAW: Contract construction, prejudgment interest, preemption under the ICC Termination Act, and other issues in shipper/rail carrier dispute.
PCS Phosphate Company, Incorpo v. Norfolk (Dever)		
Associations: 08-1285		

Tuesday, January 27, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

07-1941	Briefs	CIVIL. Whether the district court erred in finding that defendant did not breach its contractual obligations or engage in deceptive trade practices by refusing to distribute an automobile insurance dividend to a North Carolina policyholder.
08-1247	Briefs	CIVIL. Whether district court abused its discretion in denying class certification on action alleging egregious racial harassment in employment context.
08-1157	Briefs	CONTRACT LAW: Numerous issues relating to evidentiary rulings, damages, and dismissal of claims under the West Virginia Motor Vehicle Dealer Act.
08-1219	Briefs	CIVIL. Whether district court erred in granting injunctive relief, extending period of non-compete agreement, and awarding judgment and nominal damages on breach of contract claims.

Tuesday, January 27, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

08-4329 US v. Juan Gamez (Tilley)	Briefs	CRIMINAL LAW: Fourth Amendment issues related to traffic stop in which police retained defendant's driver's license.
08-1417 Iota Xi Chapter of Sigma Chi F v. Pamela Patterson (Brinkema)	Briefs	CIVIL RIGHTS: Whether fraternity is entitled to relief from university officials for alleged violation of its rights under the First Amendment and Due Process Clause; other issues.
08-1255 Hui Zheng v. Michael Mukasey	Briefs	IMMIGRATION. Whether Board's opinion in In re: C-W-L, 24 I & N. Dec. 346 (B.I.A. 2007), should be afforded Chevron deference as a reasonable interpretation of an ambiguous statute.
08-9513 In re Under Seal		UNDER SEAL CASE

Tuesday, January 27, 2009

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

08-1121	Briefs	CONSTITUTIONAL LAW: Whether the provisions of the Maryland Morticians Act violate the Fourteenth Amendment; whether the Act's restrictions on corporate ownership of funeral homes violate the dormant Commerce Clause; other issues.
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07-2083	Briefs	FIRST AMENDMENT. Numerous issues regarding constitutionality of town's sign permit regulations.
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08-1240	Briefs	CIVIL. Whether the district court properly granted summary judgment to defendant in this breach of contract action.
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08-6568	Briefs	CIVIL. Whether prison official violated inmate's First Amendment rights by disciplining him based on language used in complaint regarding prison conditions.

Tuesday, January 27, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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(01/26/2009 - 01/30/2009 Session)

08-4257 [Briefs](#) FOURTH AMENDMENT. Whether the district court erred in finding search of defendant's vehicle was proper, and thus denying motion to suppress seized evidence.
US v. Willie Neely
(Whitney)

05-2398 [Briefs](#) NATIONAL FLOOD INSURANCE ACT: Whether district court erred in setting aside FEMA's administrative rule and floodway determination based upon its failure to timely publish notice in the Federal Register.
Columbia Venture LLC v. SC Wildlife Fed
(Seymour)
Associatons: 06-1072, 08-1033, 08-1034

06-1071 [Briefs](#) SANCTIONS. Challenge to district court order sanctioning government counsel.
In Re: Bees v. Columbia Venture LLC
(Seymour)

08-1478 [Briefs](#) CONTRACTS: Whether summary judgment was appropriate on breach of contract claim.
Lincoln Financial Media Compan v. CBS
(Reidinger)

Wednesday, January 28, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

08-4302 US v. Brian Gould (Quarles)	Briefs	CRIMINAL LAW & PROCEDURE: Challenge to the constitutionality of federal Sex Offender Registration and Notification Act.
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08-1839 James Robertson v. Todd Elliott (Chambers)	Briefs	CIVIL RIGHTS: Whether defendants are entitled to qualified immunity from damages on Fourth Amendment false arrest claims.
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08-1068 Canon, U.S.A., Incorporated v. Lease Group (Cacheris)	Briefs	CIVIL. Whether Special Master's findings, incorporated into district court order, have res judicata effect on fraud and breach of settlement agreement claims; other issues.
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08-1165 Melodee White v. The Dow Chemical Company (Goodwin)	Briefs	CIVIL. Whether plaintiffs' evidence of chemical exposure was sufficient to permit an inference of proximate cause.

Wednesday, January 28, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
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07-2185	Briefs	BANKRUPTCY LAW: Whether creditor holds "purchase money security interest" in debtor's vehicle where contract price includes negative equity and gap insurance; other issues.
Wells Fargo Financial v. Telephius Price (Britt)		
Associations: 08-1022		

07-2064	Briefs	ERISA. Whether the district court applied the proper standard of review where employer with conflict of interest denied benefits to employees; other issues.
Dean Vaughan v. Celanese Americas Corporation (Whitney)		

07-7589	Briefs	POST CONVICTION. Whether the trial court erred in concluding the discovery of the victim's remains constituted manifest necessity for a mistrial.
Baum v. Rushton (Seymour)		

REVD 1/23/09

Wednesday, January 28, 2009

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
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08-6169	Briefs	CONSTITUTIONAL LAW: Whether South Carolina law regarding payment by prisoner of fee for DNA processing violates Ex Post Facto Clause.
DNA Ex Post Facto Issues v. South Carolina (Harwell)		
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07-1453	Briefs	CIVIL. Whether the district court erred in finding that it did not have specific personal jurisdiction over the
Consulting Engineers Corporati v. Geometric Limited defendants, an Indian corporation and a Colorado company, under Virginia's long-arm statute. (Cacheris)		
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08-1331	Briefs	FEDERAL PROCEDURE: Whether the district court erred in denying motion to intervene in action involving
JLS, Incorporated v. Public Service Commission of W state Public Service Commission. (Goodwin)		
Associations: 08-1338		
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07-2072	Briefs	CIVIL. Whether employer made material misrepresentations to improperly induce employee to enter into
Lampman v. DeWolff Boberg non-compete agreement; other issues. (Norton)		

Wednesday, January 28, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
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07-1946	Briefs	EMPLOYMENT DISCRIMINATION. Timeliness of discrimination and retaliation claims; application of equitable mootness doctrine; propriety of summary judgment on religious accommodation claim; other issues.
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08-4373	Briefs	CRIMINAL LAW & PROCEDURE. Whether guilty plea was involuntary when district court advised defendant of ten-year maximum term of imprisonment at plea hearing, but sentenced defendant, as armed career criminal, to 210 months' imprisonment.
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07-2020	Briefs	INSURANCE: Whether policy was rescinded by mutual agreement; whether scheme to viaticate the policy rendered it void.
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First Penn Pacific v. Evans (Davis)		

REVD 1/23/09

Thursday, January 29, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
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08-4499 US v. Johnny Lee (Dever)	Briefs	SENTENCING. Whether enhancement under USSG Section 2G2.2(b)(4) requires that materials involve sexually explicit conduct.
08-1161 The Johns Hopkins Hospital v. Allyson Post (Garbis)	Briefs	CIVIL. Whether judgment debtor has burden of proof under Maryland law to demonstrate entitlement to claimed exemptions.
07-1760 Valuepest.com of Charlotte, In v. Bayer Corporation (Thornburg)	Briefs	ANTITRUST: Challenge to summary judgment on claim of resale price maintenance or vertical price fixing in action alleging agency relationships.
07-2145 Melanie Pitrolo v. County of Buncombe, NC (Thornburg)	Briefs	CIVIL. Whether the district court properly granted summary judgment on Pitrolo's gender discrimination and retaliation claims under Title VII.

Thursday, January 29, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
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07-1853 [Briefs](#) IMMIGRATION. Whether, in denying motion reopen as untimely, the Board abused its discretion in finding
Xue Lin v. Michael Mukasey petitioner did not show changed country conditions in China regarding family planning enforcement.

08-1035 [Briefs](#) SECURITIES LAW: Issues relating to dismissal of class action complaint alleging securities fraud.
Matrix Capital Management Fund v. Bearingpoint,
(O'Grady)

07-2189 [Briefs](#) SURFACE MINING CONTROL & RECLAMATION ACT: Whether district court correctly held that plaintiff was
West Virginia Highlands Conser v. Dirk Kempthorne entitled to attorney's fees under the SMCRA for work performed at the administrative level.
(Stamp)

REVD 1/23/09

Thursday, January 29, 2009

PANEL III
Courtroom 3
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9:30 a.m.

UNITED STATES COURT OF APPEALS
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08-1299	Briefs	IMMIGRATION. Whether the Board abused its discretion denying the motion for reconsideration on the basis that Petitioner waived appeal; related issues.
Jai Narine v. Michael Mukasey		

08-1332	Briefs	CIVIL. Whether district court erred in granting summary judgment for defendant in action alleging breach of contract, unjust enrichment, and promissory estoppel.
CDC-LCGH, LLC v. Mayor and City Council of Balt (Quarles)		

07-4681	Briefs	CRIMINAL LAW & PROCEDURE. Whether Madrigal-Valadez's status as illegal alien is sufficient to support conviction for trespass under 18 U.S.C. Section 1382 (2000).
US v. Madrigal-Valadez (Hudson)		

08-1302	Briefs	CIVIL: Interpretation of willfulness requirement in revocation of firearms dealer's license.
American Arms International v. Arthur Herbert (Chasanow)		

Thursday, January 29, 2009

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
8:30 a.m.

REVD 12/17/08

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(01/26/2009 - 01/30/2009 Session)

07-4592 US v. Andrew Jason Barnes (Jones)	Briefs	CRIMINAL LAW & PROCEDURE. Whether evidence was sufficient to support conspiracy conviction on Count Two.
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08-4427 US v. Tony Majette (Turk)	Briefs	CRIMINAL LAW & PROCEDURE. Whether district court properly excused untimely notice for admission of Fed. R. Evid. 404(b) evidence, denial of motion to suppress, response to jury question, and sufficiency of evidence.
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07-4818 US v. Diane W. Pace (Boyle)	Briefs	CRIMINAL LAW & PROCEDURE: Whether district court erred in granting post-verdict motion for judgment of acquittal; other issues.

REVD 1/23/09

Friday, January 30, 2009

PANEL I
Courtroom 1
Room 412 (Red Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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07-4074 [Briefs](#) CRIMINAL LAW & PROCEDURE. Sufficiency of evidence to sustain firearm conviction; other issues.
US v. Calvin I. Savoy
(Davis)

08-4228 [Briefs](#) FOURTH AMENDMENT. Whether police officers had reasonable suspicion to stop an individual and open an
US v. Barry Works opaque plastic bag he was carrying after he left an apartment where drug activity was suspected.
(Chambers)

08-4071 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether defendant could properly be ordered to register as a sex offender
US v. Christopher Crain following conviction for violating 18 U.S.C. Section 1470.
(Harwell)

08-4109 [Briefs](#) CRIMINAL LAW & PROCEDURE. Whether district court erred in enhancing defendant's sentence under
US v. Jose Sosa-Carabantes U.S.S.G. Section 4A1.1(e); whether government violated Brady v. Maryland, 373 U.S. 83 (1963).
(Whitney)

Friday, January 30, 2009

PANEL II
Courtroom 2
Room 201 (Green Carpet)
8:30 a.m.